

E-Filed on 02/05/08

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Special Litigation Counsel for USACM Liquidating Trust

6 **UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA**

8 In re:
 9 USA COMMERCIAL MORTGAGE COMPANY,
 10 Debtor.

Case Nos.:
 BK-S-06-10725-LBR
 BK-S-06-10726-LBR
 BK-S-06-10727-LBR
 BK-S-06-10728-LBR
 BK-S-06-10729-LBR

10 In re:
 11 USA CAPITAL REALTY ADVISORS, LLC,
 12 Debtor.

JOINTLY ADMINISTERED
 Chapter 11 Cases

12 In re:
 13 USA CAPITAL DIVERSIFIED TRUST DEED FUND,
 14 LLC,
 15 Debtor.

Judge Linda B. Riegle

15 In re:
 16 USA CAPITAL FIRST TRUST DEED FUND, LLC,
 17 Debtor.

**USACM LIQUIDATING
TRUST'S EX PARTE MOTION
FOR ORDER SHORTENING
TIME TO HEAR USACM
LIQUIDATING TRUST'S
MOTION TO COMPEL
PRODUCTION OF
DOCUMENTS BY WELLS
FARGO**

17 In re:
 18 USA SECURITIES, LLC,
 19 Debtor.

Hearing Date: OST REQUESTED
 for February 21, 2008

Affects:
 All Debtors
 USA Commercial Mortgage Company
 USA Capital Realty Advisors, LLC
 USA Capital Diversified Trust Deed Fund, LLC
 USA Capital First Trust Deed Fund, LLC
 USA Securities, LLC

Hearing Time: OST REQUESTED
 for 9:30 a.m.

24 The USACM Liquidating Trust (the "Trust") hereby files this Ex Parte Motion for Order
 25 Shortening Time to Hear USACM Liquidating Trust's Motion to Compel Production of
 26 Documents By Wells Fargo and in support thereof, respectfully states as following:

1 1. On February 5, 2008, the Trust has filed its Motion to Compel Production of
 2 Documents by Wells Fargo (the “Motion”) (Docket No. 5782). The Motion is based on Wells
 3 Fargo’s failure to produce all documents responsive to the Rule 2004 Subpoena for examination
 4 and production of documents (the “Subpoena”) that the Trust served on Wells Fargo’s on March
 5 13, 2007.
 6

7 2. Over the course of many months following the service of the Subpoena, Wells
 8 Fargo asked for numerous extensions and otherwise delayed the production while promising to
 9 cooperate and produce the documents. After producing only a fraction of the documents
 10 requested in the Subpoena, the Bank stopped the production at all.

11 3. The Trust now faces the deadline of April 14, 2008 – the date the statute of
 12 limitations for avoidance actions under 11 U.S.C. § 546 expires – without many key documents
 13 that Wells Fargo promised but has not produced.
 14

15 4. As set forth more fully in the Motion, the documents requested in the Subpoena,
 16 include emails and correspondence that Wells Fargo’s employees maintained with USACM and
 17 its related entities, as well as documents related to wires and ACH transfers. These documents,
 18 crucial to the Trust’s analysis of its potential avoidance claims, and might take several weeks to
 19 collect.
 20

21 5. On February 21, 2008, there is an omnibus hearing setting in front of this Court at
 22 9:30 a.m.
 23

24 6. In light of the facts described above, The Trust seeks an order from the Court
 shortening time to hear the Motion on February 21, 2008 at 9:30 a.m.
 25

26 2. Wells Fargo will not be prejudiced by the relief requested herein because by its
 response to the Trust’s Motion is due on February 20, 2008 – a day before the hearing. Thus,
 USACM LIQUIDATING TRUST’S
 EX PARTE MOTION FOR ORDER SHORTENING
 TIME TO HEAR USACM LIQUIDATING TRUST’S
 MOTION TO COMPEL PRODUCTION OF DOCUMENTS BY
 WELLS FARGO

holding the hearing on February 21, 2007 will not shorten in any way the time that Wells Fargo has to respond to this Motion and brief the Court on relevant issues.

3. The Court can shorten notice pursuant to Federal Rule of Bankruptcy Procedure 9006(c)(1) and Bankruptcy Local Rule 9006(a).

Dated: February 6, 2008

DIAMOND MCCARTHY LLP

By: /s/ Eric D. Madden
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